

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:15-CV-00414-GCM**

MEKEISHA VICKS

JASON VICKS,

Plaintiffs,

v.

JASON PURSER

SHAPIRO AND INGLE, LLP

OCWEN LOAN SERVICING,

Defendants.

ORDER

THIS MATTER is before the Court on Plaintiffs' Motion to Vacate Voluntary Dismissal and Relieve Plaintiffs of Final Judgment (Doc. No. 9) and Defendants' Response in Opposition (Doc. No. 10). Plaintiffs filed their *pro se* complaint on September 8, 2015, alleging violations of the Fair Debt Collection Practices Act. (Doc. No. 1) On October 7, before Defendants filed an answer, Plaintiffs filed a notice of voluntary dismissal and their case was terminated. (Doc. No. 8) Plaintiffs filed this Motion to Vacate on October 20, 2015, arguing that they had filed their notice of voluntary dismissal because they were facing sanctions and imprisonment in state court proceedings initiated by Defendants. (Doc. No. 9 at 2) Plaintiffs also informed the Court that they filed the instant motion in violation of a consent order that they signed in state court. (Doc. No. 9 at 3, 12). Defendants filed a Response in Opposition (Doc. No. 10), and the time for Plaintiffs to reply has passed.

Pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, the Court is empowered to relieve a party from a final judgment for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

The Court finds that Plaintiffs have failed to establish that any of these grounds justify vacating the dismissal of their case and relieving them of the judgment. Although Plaintiffs allege that Defendants engaged in “fraud, misrepresentation, or misconduct,” they have presented no facts to support those contentions. (Doc. No. 9 at 4) To the contrary, the documents attached to Plaintiffs’ complaint establish that they agreed to dismiss this case in order to obtain favorable treatment in state court. Accordingly, Plaintiffs’ motion is hereby **DENIED**.

SO ORDERED.

Signed: November 18, 2015

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

